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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,214	12/15/2003	Rostislav Solta	R.304572	4792

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RONALD E. GREIGG
GREIGG & GREIGG P.L.L.C.
Suite One
1423 Powhatan Street
Alexandria, VA 22314

EXAMINER

PILKINGTON, JAMES

ART UNIT	PAPER NUMBER
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3682

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/734,214	Applicant(s) SOLTA, ROSTISLAV	
	Examiner James Pilkington	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-12 is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. To better comply with U.S. practice the examiner is suggesting the remove of the reference characters from the claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Byram et al, USP 5,295,409.

Re clm. 1, Byram et al discloses an accelerator pedal module (10) comprising a:

- Bearing block (65b, Figure 10) embodied as a one-piece molded part comprising a bearing region (area holding bearing 25b) having a bearing bore (hole housing shaft 12b and bearing 25b) and at least one bearing face (contact between bearing 25b and bore, the face is on the outer race of the bore)
- Pedal lever (14) retained rotatably on the bearing face (pedal lever is connected to shaft 12b which is rotatably retained on the bearing face) and being coaxial with a pivot axis (axis of shaft 12b) on the bearing block (65)

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- Rotation sensor (34b, col. 11 lines 29-34) having a sensor shaft (12b) actuated by the pedal lever (14), the sensor shaft being coaxial with the pivot axis (axis of shaft 12b)
- Part of the sensor shaft (12b) being directly supported rotatably in a bearing bore (hole housing shaft 12b and bearing 25b) of the bearing region (area holding bearing 25b) of the bearing block (65b), of wherein at least part of a radial surface of said bearing region (which is a cylindrical member) forms said at least one bearing face (contact between bearing 25b and bore) for the pedal lever (14)
- Wherein said at least one bearing face faces radially outward from the pivot axis (the outer race the bearing 25b has the bearing face which is facing radially outward from the pivot axis of the shaft 12b to contact a radially inner bearing face of the bore)

Re clm. 2, Byram et al disclose the bearing region (area holding bearing 25b) being formed by a hollow peg (70b, the bearing region extends in to the bearing block body as a peg to house the bearing 25b) of the being block (65b), the hollow peg being coaxial with the pivot axis.

Allowable Subject Matter

4. Claims 3-12 are allowed as applicant has amended claim 3 to be in independent form.

Response to Arguments

5. Applicant's arguments filed 2/08/07 regarding clms 1 and 2 have been fully considered but they are not persuasive.

The applicant argues that because the bearing bore and the bearing surface appear to be one in the same and that the bearing face does not face radially outward Byram does not anticipate the claim.

The examiner disagrees in so much that a bearing bore must have a bearing face which would be the remaining matter on the inside of the bore would therefore be a face. The claim doesn't say that bearing bore and the bearing face must be two independent and distinct members. However, the way the Byram reference is being applied in view of the amendment of to clm 1 lines 12-13 has been modify to provide a bearing face facing radially outward. The bearing face is now being clearly defined as the surface of the outer bearing race that is in contact with the bearing bore, it is this bearing face that faces radially outward from the pivot axis.

The applicant argues that the pedal lever is not rotatably retained on the bearing face in Byram.

The examiner disagrees as the pedal lever of Byram is rotatably retained on the bearing face. The pedal lever of Byram is attached to the pivot shaft and the pivot arm is rotatably retained on the bearing face (outer race of ball bearing) since the inner race rotates with the pivot shaft. Since the pivot shaft is directly connected to the pedal lever the pedal lever is indeed rotatably retained on the bearing face. As the applicant has not set forth any structure limitations that allow for "the pedal lever to be rotatably retained on the bearing face" this is a broad limitation which Byram anticipates.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Pilkington whose telephone number is (571) 272-5052. The examiner can normally be reached on Monday-Friday 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James Pilkington
3-1-07



RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER